

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

UNITED STATES OF AMERICA,

Petitioner,

v.

**ONE 2017 DODGE NEON SEDAN,
BEARING VEHICLE
IDENTIFICATION NUMBER
ZFAAADABP5H6E61044,**

Respondent.

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CIVIL ACTION NO.

EP18CV0259

JUDGE DAVID GUADERRAMA

VERIFIED COMPLAINT FOR FORFEITURE

Petitioner the United States of America, by and through the United States Attorney for the Western District of Texas and the undersigned Assistant United States Attorney, pursuant to Rule G, Supplemental Rules of Federal Rules of Civil Procedure, and respectfully states as follows:

**I.
NATURE OF THE ACTION**

1. This action is brought by the United States of America seeking forfeiture to the United States of the property described below:

- **One 2017 Dodge Neon, Bearing Vehicle Identification Number (“VIN”) ZFAAADABP5H6E61044,**

(the “Respondent Property”).

**II.
STATUTORY BASIS FOR FORFEITURE**

2. This is a civil forfeiture action *in rem* brought against the Respondent Property for violation of 8 U.S.C. § 1324(a)(1)(A)(ii) and (a)(1)(B)(ii).

3. The Respondent Property is forfeitable to the United States of America pursuant to 8 U.S.C. § 1324(b)(1), which subjects to civil forfeiture “[a]ny conveyance, including any vessel, vehicle, or aircraft, that has been or is being used in the commission of a violation of subsection (a), the gross proceeds of such violation, and any property traceable to such conveyance or proceeds, shall be seized and subject to forfeiture.”

III.
JURISDICTION AND VENUE

4. Pursuant to 28 U.S.C. § 1345, this Court has jurisdiction over an action commenced by the United States, and pursuant to 28 U.S.C. § 1355(a), jurisdiction over an action for forfeiture. This Court has *in rem* jurisdiction over the Respondent Property pursuant to 28 U.S.C. §§ 1355(b) and 1395(b). Venue is proper in this district pursuant to 28 U.S.C. § 1355(b)(1)(A), because the acts or omissions giving rise to the forfeiture occurred in this District, and pursuant to 28 U.S.C. §§ 1355(b)(1)(B) and 1395(b) because the Respondent Property was seized in this District.

5. The Respondent Property was seized in the Western District of Texas, in a business (Andrea's Thrift Shop) located at 2004 Bassett Avenue, El Paso, Texas, on or about November 20, 2017. The Respondent Property has remained in the custody of US Marshals Service and/or deposited within the jurisdiction of the United States District Court, Western District of Texas, El Paso Division, and shall remain within the jurisdiction of the court pending litigation of this case.

IV.
FACTS IN SUPPORT OF FORFEITURE

6. On November 20, 2017, at approximately 10:30 a.m., members of the El Paso Division Strike Force 1 (SF1) established surveillance at the vicinity of 8484 Alameda #7, El Paso, Texas, 8925 Alameda Ave., El Paso, Texas, 2004 Bassett Dr., El Paso, Texas and 6700 Gateway

Boulevard East, El Paso, Texas. This was in anticipation of an impending purchase of approximately 20 pounds of methamphetamine from an unknown male based out of Durango, Mexico. Through Francisco Javier Amaro-Arratia a.k.a. TIO (“Amaro”). At approximately 11:00 a.m., Amaro spoke with the confidential source via telephone, and stated that he was at a warehouse located at 2004 Basset Dr., El Paso, Texas and that he was attempting to retrieve the methamphetamine from a hidden compartment of the laden vehicle.

At approximately 11:45 a.m., Amaro spoke to the confidential source via telephone and stated that he was on his way to the Chevron Gas Station located at 6700 Gateway Boulevard, and added that he was driving a red colored Ford Explorer.

At approximately 11:57 a.m., Special Agent Uriel I. Acosta (“Special Agent Acosta”) observed Amaro arrive at the aforementioned location and park his vehicle beside the confidential source vehicle. Subsequently, Special Agent Acosta and Special Agent Brendon Zartman (“Special Agent Zartman”) observed Amaro enter the confidential source’s vehicle and meet with the confidential source. Shortly thereafter, Special Agents Acosta and Zartman observed Amaro go back to his vehicle, retrieve a large voluminous trash bag and enter the confidential source’s vehicle again.

Special Agent Acosta and Special Agent Zartman listened to the confidential source and Amaro count the number of bundles inside the confidential source’s vehicle.

At approximately 12:15 p.m., the agents approached the confidential source’s vehicle and displayed their law enforcement insignias, and placed Amaro under arrest without incident.

8. On or about October 11, 2017, a grand jury sitting in the Western District of Texas, El Paso Division, returned a two-count Felony Indictment, EP-17-CR-02038-PRM charging Francisco Javier Amaro-Arratia with Conspiracy to Possess a Controlled Substance with Intent to

Distribute (Count 1) and Possession with Intent to Distribute a Controlled Substance (Count 2), in violation of 21 U.S.C. §§ 846 & 841(a)(1) and (b)(1)(A)(viii).

9. On or about April 25, 2018, Francisco Javier Amaro-Arratia pled guilty, pursuant to a written plea agreement to Count One of the Felony Indictment.

10. Bases upon Francisco Javier Amaro-Arratia's admissions at his Rule 11 proceeding, the Respondent Property was involved in the Conspiracy to Possess a Controlled Substance with Intent to Distribute offense.

11. The Respondent Property is subject to forfeiture pursuant to 21 U.S.C. § 881(a), as property involved in violations of 21 U.S.C. §§ 846 & 841(a)(1) and (b)(1)(A)(viii).

V.
PRAYER

WHEREFORE, Petitioner, United States of America, prays that due process issue to enforce the forfeiture of the Respondent Property, that due notice pursuant to Rule G(4) be given to all interested parties to appear and show cause why forfeiture should not be decreed¹, that a warrant for an arrest *in rem* be ordered, that the Respondent Property be forfeited to the United States of America, that the Respondent Property be disposed of in accordance with the law and for any such further relief as this Honorable Court deems just and proper.

¹ Appendix A, which is being filed along with this complaint, will be sent to those known to the United States to have an alleged interest in the Respondent Properties.

Dated: September 5, 2018
El Paso, Texas

Respectfully submitted,

JOHN F. BASH
United States Attorney for the
Western District of Texas

By:



Antonio Franco, Jr.
Texas Bar No. 00784077
Assistant United States Attorney
700 E. San Antonio Ave., Suite 200
El Paso, Texas 79901
Tel: 915-534-3476
Fax: 915-534-3461

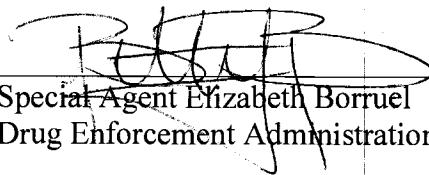
VERIFICATION

Special Agent, Elizabeth Borruel, declares and says that:

1. I am a Special Agent with the Drug Enforcement Administration assigned to the El Paso Field Office. I am the investigator responsible for the accuracy of the information provided in this litigation.
2. I have read the above Verified Complaint for Forfeiture and know the contents thereof based upon my personal participation in the investigation, my conversations with others, and my review of documents prepared by others. Based upon information and belief, the allegations contained in the Verified Complaint for Forfeiture are true and correct. Because the Verified Complaint is being submitted for the limited purpose of stating sufficiently detailed facts to support a reasonable belief that the government will be able to meet its burden of proof at trial, it does not contain every fact known by me or the United States. Where the actions, conversations, and statements of others are related therein, they are related in substance and in part, unless otherwise stated.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on this the 30 day of August, 2018.


Special Agent Elizabeth Borruel
Drug Enforcement Administration

CIVIL COVER SHEET

JUDGE DAVID GUADERRAMA

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of a pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September, 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

EP18CV0259

I. (a) PLAINTIFFS
UNITED STATES OF AMERICA

DEFENDANTS

1. One 2017 Dodge Neon Sedan, Bearing Vehicle Identification Number ZFAAADABP5H6E61044

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)
Antonio Franco, Jr., Assistant United States Attorney
700 E. San Antonio, Suite 200
El Paso, Texas 79901 (915) 534-6884

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|---|--|
| <input checked="" type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State ..	<input type="checkbox"/> 1	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input checked="" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability		<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud		<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending		<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability		<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability			<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury			<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice			<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 891 Agricultural Acts
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	Habeas Corpus:	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 899 Administrative Procedure
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 864 SSID Title XVI	Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	Other:		
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other		
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		
		IMMIGRATION	FEDERAL TAX SUITS	
		<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
		<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (Place an "X" in One Box Only)

- | | | | | | |
|---|---|--|---|--|---|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another District (specify) | <input type="checkbox"/> 6 Multidistrict Litigation |
|---|---|--|---|--|---|

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
21 U.S.C. 881(a)

VI. CAUSE OF ACTION

Brief description of cause:
Property involved or used in a knowing violations of 21 U.S.C. §§846 & 841(a)(1) and (b)(1)(A)(viii)

VII. REQUESTED IN COMPLAINT:

 CHECK IF THIS IS A CLASS ACTION
UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes NoVIII. RELATED CASE(S)
IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

09/04/2018

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

UNITED STATES OF AMERICA,

Petitioner,

v.

ONE 2017 DODGE NEON SEDAN,
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IDENTIFICATION NUMBER
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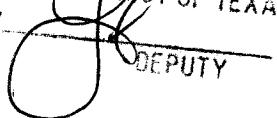
CIVIL ACTION NO.

EP18CV0259

JUDGE DAVID GUADERRAMA

FILED

2018 SEP -5 AM 11:33

U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY 
DEPUTY

NOTICE OF COMPLAINT FOR FORFEITURE

1. On September 5, 2018, Petitioner United States of America, by its attorneys, John F. Bash, United States Attorney for the Western District of Texas, and Assistant United States Attorney Antonio Franco, Jr., filed a Verified Complaint for Forfeiture in the United States District Court for the Western District of Texas, against the property described below, which is also specifically described in the Verified Complaint for Forfeiture, and which is subject to forfeiture to the United States pursuant to 21 U.S.C. § 881(a), as property involved in violations of 21 U.S.C. §§ 846 & 841(a)(1) and (b)(1)(A)(viii), namely:

- One 2017 Dodge Neon, Bearing Vehicle Identification Number (“VIN”) ZFAAADABP5H6E61044,

(hereinafter referred to as the “Respondent Property”).

2. Pursuant to Rule G(4)(b) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, notice to any person who reasonably appears to be a potential claimant shall be by direct notice. Accompanying this notice is the Verified Complaint for Forfeiture which has been filed in this cause and which describes the Respondent Property.

Pursuant to Supplemental Rule G(4)(b), any person claiming an interest in the Respondent Property who has received direct notice of this forfeiture action must file a Claim in compliance with Rule G(5)(a), with the court within **thirty-five (35) days after the notice was sent, if delivered by mail (if mailed, the date sent is provided below), or within 35 days of the date of delivery, if notice was personally served.** An Answer or motion under Rule 12 of the Federal Rules of Civil Procedure must then be filed within **twenty-one (21)** days of the Claim being filed. The Claim and Answer must be filed with the Clerk of the Court, 525 Magoffin, Suite 105, El Paso, Texas 79901, and copies of each must be served upon Assistant United States Attorney Antonio Franco, Jr., 700 E. San Antonio Ave, Suite 200, El Paso, Texas 79901, or default and forfeiture will be ordered. *See 18 U.S.C. § 983(a)(4)(A) and Rule G(5) of the Supplemental Rules for Admiralty or Maritime Claim and Asset Forfeiture Actions.*

Failure to follow the requirements set forth above will result in a judgment by default taken against you for the relief demanded in the complaint.

APPENDIX A

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FILED

2018 SEP -5 AM 11:33

UNITED STATES OF AMERICA,

Petitioner,

v.

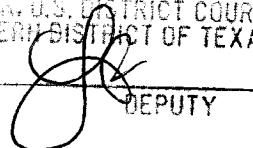
ONE 2017 DODGE NEON SEDAN,
BEARING VEHICLE
IDENTIFICATION NUMBER
ZFAADABP5H6E61044,

Respondent.

) CIVIL ACTION NO.

EP 18 CV 0259

JUDGE DAVID GUADERRAMA

U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY 
DEPUTY

WARRANT FOR THE ARREST OF PROPERTY

TO THE UNITED STATES MARSHALS SERVICE, THE DRUG ENFORCEMENT ADMINISTRATION OR OTHER AUTHORIZED LAW ENFORCEMENT OFFICER OR ANY OTHER PERSON OR ORGANIZATION AUTHORIZED BY LAW TO ENFORCE THE WARRANT:

WHEREAS, on September 5, 2018, Petitioner United States of America, by its attorneys, John F. Bash, United States Attorney for the Western District of Texas, and Assistant United States Attorney Antonio Franco, Jr., filed a Verified Complaint for Forfeiture in the United States District Court for the Western District of Texas, against one 2017 Dodge Neon, Bearing Vehicle Identification Number (“VIN”) ZFAADABP5H6E61044, seized on or about November 20, 2017, in El Paso, Texas, in the Western District of Texas (hereinafter referred to as the “Respondent Property”), alleging that the Respondent Property is subject to forfeiture to the United States of America pursuant to 21 U.S.C. § 881(a), as property involved in violations of 21 U.S.C. §§ 846 & 841(a)(1) and (b)(1)(A)(viii), and

WHEREAS an Order has been entered by the United States District Court for the Western District of Texas that a Warrant for Arrest of Property be issued as prayed for by Petitioner United States of America,

YOU ARE THEREFORE COMMANDED to arrest the Respondent Property as soon as practicable by serving a copy of this warrant on the custodian in whose possession, custody or control the Respondent Property is presently found, and to use whatever means may be appropriate to protect and maintain it in your custody until further order of this Court, including designating a substitute custodian or representative for the purposes of maintaining the care and custody of the Respondent Property and to make a return as provided by law.

SIGNED this _____ day of _____, 2018.

JEANNETTE J. CLACK
United States District Clerk
Western District of Texas

By: _____
Deputy

RECEIVED

SEP 5 2018

CLERK, WESTERN DISTRICT CLERK
WESTERN DISTRICT OF TEXAS
BY 

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

UNITED STATES OF AMERICA,

)

Petitioner,

)

v.

)

CIVIL ACTION NO.

ONE 2017 DODGE NEON SEDAN,
BEARING VEHICLE
IDENTIFICATION NUMBER
ZFAADABP5H6E61044,

)

EP18CV0259

JUDGE DAVID GUADERRAMA

Respondent.

)

ORDER FOR WARRANT OF ARREST OF PROPERTY

WHEREAS, on September 5, 2018, Petitioner United States of America, by its attorneys, John F. Bash, United States Attorney for the Western District of Texas, and Assistant United States Attorney Antonio Franco, Jr., filed a Verified Complaint for Forfeiture in the United States District Court for the Western District of Texas, against one 2017 Dodge Neon, Bearing Vehicle Identification Number (“VIN”) ZFAADABP5H6E61044, seized on or about November 20, 2017, in El Paso, Texas, in the Western District of Texas (hereinafter referred to as the “Respondent Property,” alleging that the Respondent Property is subject to forfeiture to the United States of America pursuant to 21 U.S.C. § 881(a), as property involved in violations of 21 U.S.C. §§ 846 & 841(a)(1) and (b)(1)(A)(viii),

IT IS THEREFORE ORDERED that a Warrant for the Arrest of Property against the Respondent Property issue as prayed for, and that the United States Marshals Service, Drug Enforcement Administration, or any other law enforcement officer, or any other person or

organization authorized by law to enforce the warrant, be commanded to arrest the Respondent Property and take it into possession for safe custody as provided by Rule G, Supplemental Rules of Federal Rules of Civil Procedure, until further order of the Court, and to use whatever means may be appropriate to protect and maintain it in their custody, including designating a substitute custodian or representative for the purposes of maintaining the care and custody of the Respondent Property, and to make a return as provided by law.

SIGNED this _____ day of _____, 2018.

UNITED STATES DISTRICT JUDGE